P.R. No. 2369/06
Presented by Shri D.P. Gupta
dated 18/9/06

Single Bench

IN THE HIGH COURT OF CHHATTISGARH, AT BILASPUR

C.R.No. 124 /2006

Petitioner : Ashu Dutt S/o Shri Devendra Nath Dutt Aged about 38 years, R/o Shri Ram Towers, Vyapar Vihar, Bilaspur , Tahsil & District Bilaspur CG.

Versus

Respondent : Smt. Bhagwati Devi Widow of Late Shri Tejumal Kanjani, aged about 74yrs R/o Torwa, Tahsil & District Bilaspur

Civil Revision Under Section 23E of C.G.Accommodation control Act Read with Sec. 115 of C.P.C.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	02.02.2007 Applicant-Ashu Datt by Shri Upendra Bharat, Advocate with Shri Devendra P. Singh. Non-Applicant-Smt.Bhagwati Devi by Shri K.A.Ansari, Senior Advocate with Shri R.L.Bajpayee. This revision is being disposed of finally at the stage of admission today with the consent of the parties. Heard. The applicant is aggrieved by an order dated 27.06.2006 passed by the Rent Controlling Authority (R.C.A.), Bilaspur in Case No.3/A-90(6)/2002-03. Learned counsel for the applicant has, during his arguments, contended that the impugned order is liable to be set aside since the application filed by the non-applicant before the R.C.A. on 2.6.2003 does not disclose a ground for eviction of the tenant under Section 23-A of the Chhattisgarh Accommodation Control Act, 1961 (hereinafter referred to as the Act). I have heard the rival contentions at length on the aforesaid objection raised by the learned counsel for the applicant. Section 23-A which falls under Chapter III-A of the Chhattisgarh Accommodation Control Act, 1961 is a special provision for eviction of tenant on ground of bona fide requirement which	

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enures to the benefit of a landlord who falls within the category of the persons, mentioned in Section 23-J of the Act. It provides a speedy remedy to the special class of persons, enumerated under Section 23-J of the Act, to seek eviction of the tenant on ground of bona fide requirement for residence.

Section 23-A of the Act read as under:

> **23-A. Special provision for eviction of tenant on ground of bona fide requirement.**—Notwithstanding anything contained in any other law for the time being in force or contract to the contrary, a landlord may submit an application, signed and verified in a manner provided in rules 14 and 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908) as if it were a plaint to the Rent Controlling Authority on one or more of the following grounds for an order directing the tenant to put the landlord in possession of the accommodation, namely:--
>
> (a) that the accommodation let for residential purposes is required "*bona fide*" by the landlord for occupation as residence for whose benefit, the accommodation is held and that the landlord or such person has no other reasonably suitable residential accommodation of his own in his occupation in the city or town concerned.
>
> *Explanation.—For the purposes of this clause, "accommodation let for residential purposes' includes—*

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(i) any accommodation which having been let for use as a residence is without the express consent of the landlord, used wholly or partly for any non-residential purpose;

(ii) any accommodation which has not been let under an express provision of contract for non-residential purpose;

(b) that the accommodation let for non-residential purposes is required "*bona fide*" by the landlord for the purpose of continuing or starting his business or that of any of his major sons or unmarried daughters, if he is the owner thereof or for any person for whose benefit the accommodation is held and that the landlord or such person has no other reasonably suitable non-residential accommodation of his own in his occupation in the city or town concerned:

Provided that where a person who is a landlord has acquired any accommodation or any interest therein by transfer, no application for eviction of tenant of such accommodation shall be maintainable at the instance of such person unless a period of one year has elapsed from the date of such acquisition."

It is thus clear that a landlord falling within the category of Section 23-J of the Act may file application on the ground of bona fide requirement for occupation as residence for himself or for any member of his family, or for any person for whose benefit the

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accommodation is held and that the landlord or such person has no other reasonably suitable residential accommodation of his own in his occupation in the city or town concerned.

The non-applicant-landlord filed an application under Section 23-A of the Act on 2.6.2003 before the Rent Controlling Authority, Bilaspur. Paragraphs 4 and 5 of the application read as under:

> 4. उपरोक्त वर्णित कुल 6738 वर्गफीट भूमी पर एक अत्यन्त जर्जर पुराना मकान बना हुआ था जिसे तोड़कर अलग—अलग मकान बनाने की योजना थी।
>
> 5. किसी भी तरह उक्त संपत्ति किराये पर देने की कोई इच्छा नहीं रही वरन् पूर्व में दर्शायेनुसार पुराने मकान को तोड़कर उस पर 4 नये मकान बनाने के उद्देश्य से आवेदिका के पति ने उसे खरीदा था। परंतु निर्माण के लिए धन जमा करते —करते 1998 में अचानक आवेदिका के पति की मृत्यु हो गई।"

Grounds No.4 and 5 mentioned above do not even have a whisper that the landlord needs the accommodation bona fide for occupation as residence for himself or for any member of his family.

Shri K.A.Ansari, learned Senior Counsel for non-applicant had next pointed out that although a specific ground for eviction of the tenant on the ground of bona fide requirement for residence for herself or for any member of her family is not disclosed by the

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application filed before the Rent Controlling Authority, yet paragraphs 7 and 11 of the notice sent by the landlord to the applicant-tenant by itself constitutes a valid ground under Section 23-A of the Act. Learned counsel referred to paragraphs 7 and 11 of the said notice which read as under:-

> "7. मेरी आसामिया किसी भी तरह मकान किराये पर देने के लिए बिल्कुल इच्छा नही थी और उसने यह भी बताया कि मकान को गिरा कर वहां उसके सभी पुत्रों के लिये मकानात बनाए जाने है। इस पर आपने मात्र 5–6 माह के लिए मकान किराए पर देने की प्रार्थना की और साधारण मरम्मत स्वयं रहने योग्य कराने की बात कही।
>
> 11. मेरी आसामिया एक विधवा है। वह अपने सभी पुत्रों के लिए मकानात बनाना चाहती है। वर्तमान मकान मेरे आसामिया के परिवार के बढ़ने के कारण निवास की भी समस्या उत्पन्न हो गई है। उपरोक्त वर्णित कारणों से मेरी आसामिया आप की किरायेदारी दिनांक 31.5.2003 को मध्य रात्रि से समाप्त करती है।"

The argument advanced by the learned counsel for the non-applicant cannot be countenanced. Even otherwise, I do not find that a specific ground under Section 23-A of the Act is disclosed by the notice. Paragraphs 7 & 11 do not specifically mention whether the suit house is required bona fide for the residence of the non-

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applicant. It also does not mention the name of the son for whom the suit house is required for residence. The notice also does not make a mention that the landlord has no other reasonably suitable residential accommodation in the city or town concerned for this purpose. I am of the considered opinion that unless a specific ground available under Section 23-A of the Act is taken in the application filed before the R.C.A. a non-specific reference in the notice would not by itself constitute a valid ground for eviction of the tenant.

In this view of the matter, I am of the considered opinion that no ground under Section 23-A of the Act having been disclosed, the application dated 2.6.2003 filed by the landlord before the R.C.A. was liable to outright rejection, and therefore, the impugned order being contrary to law is liable to be set aside.

In the result the Civil Revision is allowed. The impugned order dated 27.06.2006 is set aside on the ground that the application dated 2.6.2003 under Section 23-A of Act does not disclose any ground for eviction under Section 23-A of the Act.

Sd/-
Dilip Raosaheb Deshmukh
Judge

P.T.O.